

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO JACQUEZ, et al.,
Defendants.

ORDER DIRECTING PLAINTIFF TO PROVIDE FURTHER INFORMATION FOR UNSERVED DEFENDANTS

Plaintiff, a prisoner currently incarcerated at the Pelican Bay State Prison (“PBSP”) in Crescent City, filed the instant civil rights action in pro se pursuant to 42 U.S.C. § 1983 against PBSP officials. The Court ordered service of Plaintiff’s complaint upon the named defendants. (See Docket No. 3.) On March 14, 2011, the summons for Defendant J. Reynoso was returned with the following remark: “Facility has more than one individual with same name and initial. More information is needed.” (Docket No. 15.) The summons for Defendant F. Avila was also returned on the same day with the following remark: “Subject is no longer at the facility. The facility will not accept service.” (Docket No. 16.) Accordingly, Reynoso and Avila have not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may

1 rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to
2 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon
3 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
4 knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s
5 complaint has been pending for over 120 days, and thus, absent a showing of “good
6 cause,” is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m). Plaintiff has
7 not provided sufficient information to allow the Marshal to locate and serve Defendants
8 Reynoso and Avila, and consequently Plaintiff must remedy the situation or face
9 dismissal of his claims against these defendants without prejudice. See Walker v.
10 Sumner, 14 F.3d at 1421-22 (holding prisoner failed to show cause why prison official
11 should not be dismissed under Rule 4(m) where prisoner failed to show he had provided
12 Marshal with sufficient information to effectuate service).

13 Accordingly, Plaintiff must provide the Court with Defendant Reynoso’s full name
14 and badge number, if known, and Defendant Avila’s accurate current location such that
15 the Marshal is able to effect service. If Plaintiff fails to provide the Court with an
16 accurate current location for them within thirty (30) days of the date this order is filed,
17 Plaintiff’s claims against Reynoso and Avila will be dismissed without prejudice pursuant
18 to Rule 4(m) of the Federal Rules of Civil Procedure.

19 IT IS SO ORDERED.

20 DATED: 4/1/11

21 
22 JEREMY FOGEL
23 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARIO TRUJILLO,
Plaintiff,

Case Number: CV10-05183 JF

CERTIFICATE OF SERVICE

v.

FRANCISCO JACQUEZ, et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 4/22/11, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Mario Trujillo F-99682
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95531

Dated: 4/22/11_____

Richard W. Wieking, Clerk